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Docket No. AUS92001945US1 Serial No. 10/005,680 Atty: AJP

Applicant: BROWN ET AL

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Serial No. 10/005,680
Atty Docket AUS920010945US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	: Before the Examiner:
Brown et al.	: Marie Ubiles
Serial No.: 10/005,680	: Group Art Unit: 2642
Confirmation Number: 9585	:
Filed: 12/03/2001	: IBM Corporation (AP)
Title: HOLD QUEUE POSITION	: c/o Amy J. Pattillo
PUBLICATION	: P.O. Box 161327
Docket Number: AUS920010945US1	: Austin, Texas 78716

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TRANSMITTAL OF APPEAL BRIEF UNDER 37 CFR §41.37

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Attached is Appellants' Brief, from a decision of the Examiner dated March 11, 2004, finally rejecting claims 1-27.

Please charge the fee of $500.00 under 37 CFR §41.20(b)(2) for submission of this Appeal Brief to IBM Corporation Deposit Account No. 09-0447.

The commissioner is hereby authorized to charge any additional fee which may be required or credit any overpayment to IBM Corporation Deposit Account No. 09-0447. A duplicate copy of this document is enclosed.

Respectfully submitted,

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Serial No. 10/005,680
Atty Docket AUS920010945US1

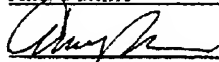# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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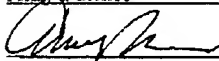## TRANSMITTAL OF APPEAL BRIEF UNDER 37 CFR §41.37

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Respectfully submitted,

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Serial No. 10/005,680 FEB 0 7 2005

Atty Docket No. AUS920010945US1

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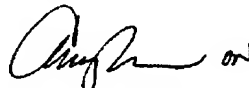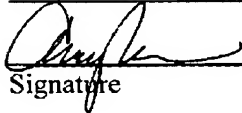
APPEAL BRIEF UNDER 37 CFR §41.37

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    This Appeal Brief is submitted in support of the Appeal in the above-referenced application pursuant to a Notice of Appeal filed December 8, 2004 as required by 37 C.F.R. 41.31. This is an appeal from a final rejection dated September 9, 2004 of Claims 1, 2, 4-9, and 11-35 of application serial number 10/005,680, filed December 3, 2001

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Atty Docket No. AUS920010945US1

I. Real Party in Interest

The real party in interest in the present application is the Assignee, International Business Machines Corporation of Armonk, New York, as evidenced by the Assignment set forth at Reel 012361, Frame 0171.

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II. Related Appeals and Interferences

Related US Patent Application Serial No. 10/015,266 and related US Patent
Application Serial No. 10/015,383 are concurrently pending appeal. There are no
additional Appeals or Interferences known to Appellant, Appellant's legal representative,
or assignee which may be related to, directly affect or be directly affected by or have a
bearing on the Board's decision in the pending appeal. No decisions have been rendered
by a court or the Board in the related applications.

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III. Status of Claims

1. Status of All Claims in Application

    a. Claims Rejected: 1, 2, 4-9, and 11-35

    b. Claims Allowed or Confirmed: None

    c. Claims Withdrawn from Consideration: None

    d. Claims Objected to: None

    e. Claims Cancelled: 3 and 10

2. Claims on Appeal

    a. The claims being appealed are: 1, 2, 4-9, and 11-35

    b. The claims being appealed stand finally rejected as noted by the Examiner in the Examiner's Action dated September 9, 2004 and the Advisory Action dated December 16, 2004. These rejected claims which form the basis of this appeal are reproduced in the attached Appendix.

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IV. Status of Amendments

A proposed amendment after final rejection under 37 CFR 1.116 was presented to
the Examiner on November 9, 2004, where the proposed amendment included a
declaration under 37 CFR 1.131. In the Advisory Action dated December 16, 2004, the
Examiner notes that the declaration was considered, but does not place the application in
condition for allowance. [Advisory Action, p. 2] The Advisory Action sets the status of
the claims, for purposes of appeal, to claims 1, 2, 4-9, and 11-35 as finally rejected.

V. Summary of Claimed Subject Matter

Claim 1 is directed to a method for publishing call queue characteristics (Specification, page 4, lines 11-13, page 7, lines 3-5). In particular, an on hold system that manages calls waiting on hold also monitors multiple characteristics of the on hold system (Specification, page 4, lines 15-16 and 21-22, Figure 2, elements 12, 33, and 38, Figure 3, element 50). The on hold system detects a selection by a caller currently waiting on hold of a particular format from a menu of multiple available formats for publishing the multiple characteristics (Specification, page 4, lines 17-18, page 11, lines 1-15, page 19, lines 4-6, Figure 6, element 104). In response, the on hold system transfers the multiple characteristics to the caller in the particular format selected by the caller (Specification, page 4, lines 18-19, page 7, lines 20-26, page 19, lines 9-23, page 20, lines 3-5, Figure 3, element 50, Figure 6, elements 108, 111, and 118).

Claim 5 is directed to a method for transferring the characteristics in the particular format to an interface specified by the caller, where the interface may include the device used by the caller to place the call currently on hold or a device independent of the device used by the caller to place the call currently on hold (Specification, page 7, lines 26-29, page 11, lines 1-32, page 13, line 32 through page 14, line 12). Claim 7 is directed to a method for filtering a preferred selection from among the multiple characteristics to publish to the caller according to the caller output preferences (Specification, page 15, lines 1-15).

Claims 8, 12 and 14 are directed to an on hold system with means for performing the elements described in claims 1, 5, and 7. In particular, Figure 2 illustrates an on hold system 12 that includes a controller 30 which provides the means for performing the elements described in claims 1, 5 and 7 (Specification, page 12, line 4 through page 13, line 2). In addition, on hold system 12 includes a call hold queue 32 for managing multiple calls waiting on hold (Figure 2, elements 12 and 32).

Claims 15, 16, and 18 are directed to a computer program product for performing the steps described in claims 1, 5 and 7. In particular, the specification describes that while the invention is described with reference to a data processing system, the computer readable medium of Claims 15, 16, and 18 is taught where the recordings, which are the means for performing the elements of claims 1, 5 and 7 can all be distributed through a

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"computer readable medium of instructions and a variety of forms" (Specification, page 20, lines 7-15). Examples of a recording medium include:

> "recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMS, DVD-ROMs, and transmission-type media, such as digital and analog communications links, wired or wireless communications links using transmission forms, such as, for example, radio frequency and light wave transmissions" (Specification, page 20, lines 15-20).

In addition, the recording medium may "take the form of coded formats that are decoded for actual use in a particular data processing system" (Specification, page 20, lines 20-23). In one example, controller 30 of Figure 2 for controlling the on hold system includes computer resources, such as a processor, memory, a data storage system, system software and application software, where the memory, for example, may be a recording medium recorded with the means described in claims 15, 16, and 18 (Specification, page 12, lines 9-13).

Claim 19 is directed to a method for publishing call queue characteristics (Specification, page 4, lines 11-13, page 7, lines 3-5). In particular, an on hold system that manages calls waiting on hold also monitors multiple characteristics of the on hold system (Specification, page 4, lines 15-16 and 21-22, Figure 2, elements 12, 33, and 38, Figure 3, element 50). The on hold system detects a selection by a caller currently waiting on hold of a particular interface from among multiple available interfaces for publishing the multiple monitored characteristics (Specification, page 4, lines 23-24, page 11, lines 17-32, page 19, lines 4-6, Figure 6, elements 104 and 106). In response, the on hold system transfers the multiple characteristics to the interface selected by the caller (Specification, page 4, lines 24-26, page 7, lines 20-23 and 26-31, page 19, lines 9-23, page 20, lines 3-5, Figure 3, element 50, Figure 6, elements 108, 110, 111, and 118).

Claim 22 is directed to a method for outputting a call tracking number and network address to the caller waiting in the on hold system and then, responsive to detecting the call tracking number entered through a caller accessible interface accessing the network address, transferring the characteristics to the caller accessible interface (Specification, page 11, lines 11-13, page 12, line 32 through page 13, line 18, page 19, lines 6-17, page 20, lines 1-5, Figure 1, elements 14a-14n, Figure 3, element 50, Figure 4, element 60, Figure 6, elements 106, 110, 114, 116, 118). Claim 23 is directed to a

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method for receiving a caller account identifier as the particular interface selected by the caller and transferring the characteristics via a network in an electronic mail to an account server serving the caller account identifier (Specification, page 11, lines 13-32, page 14, lines 20-31, page 19, lines 7-23, Figure 1, elements 14a-14n, element 15, Figure 3, element 50, Figure 4, element 60, Figure 6, elements 106 and 111). Claim 24 is directed to a method for receiving a caller account identifier as the particular interface selected by the caller and transferring the characteristics in an instant message to the caller messaging identifier via a network (Specification, page 11, lines 13-32, page 14, lines 20-31, page 19, lines 7-23, Figure 1, elements 14a-14n, element 15, Figure 3, element 50, Figure 4, element 60, Figure 6, elements 106 and 111).

Claims 25 and 28-30 are directed to an on hold system with means for performing the elements described in claims 19 and 22-24. In particular, Figure 2 illustrates an on hold system 12 that includes a controller 30 which provides the means for performing the elements described in claims 19 and 22-24 (Specification, page 12, line 4 through page 13, line 2). In addition, on hold system 12 includes a call hold queue 32 for managing multiple calls waiting on hold (Figure 2, elements 12 and 32).

Claims 31 and 33-35 are directed to a computer program product for performing the steps described in claims 19 and 22-24. In particular, the specification describes that while the invention is described with reference to a data processing system, the computer readable medium of claims 31 and 33-35 is taught where the recordings, which are the means for performing the elements of claims 19 and 22-24, can all be distributed through a "computer readable medium of instructions and a variety of forms" (Specification, page 20, lines 7-15). Examples of a recording medium include:

> "recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMS, DVD-ROMs, and transmission-type media, such as digital and analog communications links, wired or wireless communications links using transmission forms, such as, for example, radio frequency and light wave transmissions" (Specification, page 20, lines 15-20).

In addition, the recording medium may "take the form of coded formats that are decoded for actual use in a particular data processing system" (Specification, page 20, lines 20-23). In one example, controller 30 of Figure 2 for controlling the on hold system includes computer resources, such as a processor, memory, a data storage system, system software

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and application software, where the memory, for example, may be a recording medium as described in claim 31 (Specification, page 12, lines 9-13).

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VI. Grounds of Rejection to be Reviewed on Appeal

1. Claims 1-2, 4, 8-9, 11, and 15 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473).

2. Claims 5 and 7, 12, 14, 16, 18-21, 25-27, and 31-32 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473) in view of Coussement (US Patent Publication 2002/0055967).

3. Claims 22-24, 28-30, and 33-35 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473) in view of Coussement (US Patent Publication 2002/0055967) as applied to claims 5 and 7, 12, 14, 16, 18-21, 25-27, and 31-32 and further in view of Petrovykh (US Patent Publication 2002/0055975.

4. Claims 6, 13, and 17 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473) in view of Ginsberg (US Patent 6,064,730).

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VII. Argument

1.   35 U.S.C. 103(a), Alleged Obviousness, Claims 1-2, 4, 8-9, 11, and 15

The Final Office Action rejects claims 1-2, 4, 8-9, 11, and 15 under 35 U.S.C.
§103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473). [Final
Office Action, dated September 9, 2004, p. 2] The rejection is respectfully traversed.

Independent method claim 1, which is representative of independent system claim
8 and independent computer program product claim 15, with regard to similarly recited
subject matter and rejection, reads as follows:

> 1.   A method for publishing call queue characteristics comprising:
>   monitoring a plurality of characteristics of an on hold system; and
>   responsive to a selection by a caller currently waiting within said
> on hold system of a particular format from a menu of a plurality of
> available formats for publishing said plurality of characteristics,
> transferring said plurality of characteristics to said caller in said particular
> format.

The Examiner carries the burden of proving a prima facie case of obviousness for
a 103(a) rejection. In particular, in establishing a prima facie case of obviousness under
103(a), the combined prior art references must teach or suggest all the claim limitations.
In re Vaeck, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Appellants respectfully
assert that the Examiner does not show and the references do not teach or suggest,
separately or in combination, transferring said plurality of characteristics to said caller in
a particular format, responsive to a selection by a caller currently waiting within said on
hold system of said particular format from a menu of a plurality of available formats for
publishing said plurality of characteristics.

In particular, the Examiner cites Burg et al. as teaching a method for publishing
call queue characteristics (Abstract, lines 8-11). [Final Office Action, dated September 9,
2004, p. 2] The Examiner notes:

> "while not directly disclosed, it is implicit on Burg et al.'s system the
> monitoring a plurality of characteristics of a hold system (as read on
> providing information such as, wait time estimate and queue length
> including place in queue, based on a caller's request) (Col. 5, lines 43-
> 48)." [Final Office Action, p. 2]
> Further, regarding the element of transferring said plurality of characteristics to

said caller in a particular format, responsive to a selection by a caller currently waiting

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within said on hold system of said particular format from a menu of a plurality of available formats for publishing said plurality of characteristics, the Examiner cites Burg as teaching:

> "If the request [made by the caller] is a wait time estimate, for example, the system may provide an estimate of the approximate time of waiting until the call may be answered. [...] An example of a status message would be "Your call will be served in 5 minutes." The signaling gateway 460 may prepare a reply packet to the ISP 450 and computer 400 which may include a web page, audio announcement, pop-up window, etc. (See Col. 5, lines 53-56 and 60-65). [Final Office Action, pp. 2-3]

The Examiner concludes that "it can be see that Burg et al. discuses "responsive to a selection by a caller currently waiting within said on hold system" as reading on "the request made by the caller for a wait time estimate." [Final Office Action, p. 3]

In addition, regarding a particular format from a menu of a plurality of available formats for publishing said plurality of characteristics to said caller in said particular format, the Examiner cites:

> "...one of ordinary skill in the art would have found it obvious to have a caller choosing from among different ways (e.g. web page, audio announcement, pop-up window) for the display of a reply packet to his or her request regarding wait times. This option to choose from among different way[s] of information display would have been obvious if – for example – the customer is calling from phone 410 (see Fig. 4), as the obvious choice will be for the caller to receive an audio announcement based on his or her request." [Final Office Action, p. 3]

Appellants assert that Burg does not teach "particular format from a menu of a plurality of available formats for publishing said plurality of characteristics to said caller in said particular format" because a selectable menu of multiple available formats is not obvious to one of ordinary skill in the art in view of Burg's teachings. In particular, Burg describes a call center to which callers may place calls via a computer 400 (using VoIP over the Internet) or via a phone 410 (Burg, col. 2, lines 54-61). In addition, as cited by the Examiner, Burg teaches enabling a caller to request a wait time estimate via the calling device and responding to the caller's request with a status message at that calling device (Burg, col. 5, lines 53-56). Burg does not teach, however, enabling a caller to choose the format for publishing the characteristics to the caller. Because Burg does not teach enabling a caller to choose a format, Burg also does not teach a selectable menu of

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the multiple formats available to a caller. Therefore, Appellants assert that the mere fact that Berg describes that a reply message might be output in multiple formats (web page, audio announcement, pop-up window) does not suggest nor make it obvious to provide a selectable format menu based on the available formats to each caller (a plurality of available formats) and control publication of the on-hold characteristics to the caller in a format selected by the caller.

In addition, the Examiner notes that the option to choose different ways of information display would have been obvious because if the caller is calling from phone 410, the obvious choice would be for the caller to receive an audio announcement. [Final Office Action, p. 3] The present invention, however, it not concerned with the obvious choice or a single choice; the present invention provides for a menu of those multiple formatting options that are available, so that the caller may decide what format is preferred by the caller. In addition, implied in "a plurality of available formats" is the teaching that there are in fact multiple formats available to a caller and there is not an "obvious" choice for a particular device. In one example, Appellants note that many wireless telephony devices include a display interface and an audio interface, where there would not be an obvious choice for a caller of the formatting between a display based format and an audio based format.

In conclusion, Appellants respectfully assert that Burg's teaching that on-hold characteristics may be output to a device in different formats, does not make it obvious to one of ordinary skill in the art to provide a caller with a selectable menu of those formats that are available to that caller. Therefore, a prima facie case of obviousness under 103(a) is not established for claims 1, 8, and 15 because the teachings of Burg do not make at least one element in claims 1, 8, and 15 obvious to one of ordinary skill in the art. Because a prima facie case of obviousness under 103(a) is not established for the claims 1, 8, and 15, Appellants respectfully request allowance of claims 1, 8, and 15. In addition, because prima facie obviousness is not established for claims 1, 8, and 15, at least by virtue of their dependency on claims 1, 8, and 15, the teaching of Burg do not make the features of dependent claims 2, 4, 9, and 11 obvious under 35 U.S.C. §103(a).

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2. 35 U.S.C. 103(a), Alleged Obviousness, Claims 5 and 7, 12, 14, 16, 18-21, 25-27, and 31-32

The Final Office Action rejects claims 5 and 7, 12, 14, 16, 18-21, 25-27, and 31-32 under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473) in view of Coussement (US Patent Publication 2002/0055967). [Final Office Action, p. 4] The rejection is respectfully traversed.

Claims 5, 12, 16, 19, 20, 25, 26, and 31

Dependent method claim 19, which is representative of claims 5, 12, 16, 20, 25, 26, and 31, with regard to similarly recited subject matter and rejection, reads as follows:

> 19.   A method for interface specific call queue publishing comprising:
>   monitoring a plurality of characteristics of an on hold system; and
>   responsive to a selection by a caller through a telephony based
> communication while on hold within said on hold system of a particular
> interface from among a plurality of available interfaces for publishing said
> plurality of characteristics, transferring said plurality of characteristics to
> said particular interface selected by said caller.

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. In particular, in establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In addition, in establishing a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Appellants respectfully assert that the Examiner does not show and the references do not teach or suggest, separately or in combination, transferring said plurality of characteristics to said particular interface selected by said caller, responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics. In addition, Appellants respectfully assert that there is not any suggestion or motivation, either in Burg or Coussement or in the knowledge generally available to one of ordinary skill in the art, to modify or combine Burg and Coussement.

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In particular, the Examiner cites Burg as lacking the teaching of "transferring said plurality of characteristics in said particular format to an interface specified by said caller." In particular, the lack of teaching cited by the Examiner is the element described in dependent claim 5 and is the focus of the Examiner's rejection. The Examiner rejects independent claim 19, however, for the same reasons as claim 5 and under the col. 2, lines 47-49 of Burg which the Examiner states teach the element of "through a telephony based communication." [Final Office Action, p. 5] Appellants respectfully traverse the rejection with respect to the elements of independent claim 19.

The Examiner cites Coussement, paragraph 0051, lines 1-8 as teaching transferring said plurality of characteristics to said particular interface selected by said caller, responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics. [Final Office Action, p. 4] Specifically, the Examiner summarizes Coussement, paragraph 0051, lines 1-8, as teaching:

> "a user utilizing a PC (i.e. interface) with an instance of software Customer Presence Software 10, which is adapted to integrate communication-center status information into a customer's electronic interface served upon customer's request." [Final Office Action, p. 4].

The Examiner then concludes that

> "it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify Burg et al.'s system as per the teachings of Coussement; and thus in this manner provide a system that will save phone costs for customers (or callers) as well as reducing utilization requirements of communication center interface technologies." [Final Office Action, p. 5]
> First, Appellants assert that the combination of Burg and Coussement do not teach

transferring said plurality of characteristics to said particular interface selected by said caller, responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics because there is no motivation to combine the references. First, Coussement teaches a system where a customer logs on to the Internet, navigates a webpage hosted by a call center service, inputs an intent or reasons for potentially calling the call center, and submits the

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information to the call center (Coussement, Fig. 3). In response, the call center service estimates wait times for the caller and returns the estimated data, via a web page interface, to the device through which the user has logged on to view the web page. (Coussement, Fig. 3). Where Coussement teaches integrating communication-center status information in a customer's electronic interface served upon customer's request, when read as a whole, Coussement teaches transferring status information via a web page interface to the computer system through which a user is logged onto the Internet, responsive to a request by the user via the web page for the status information. Thus, Coussement, when viewed as a whole, provides a web page interface through which a user not yet waiting in a hold queue can access hold queue information; Coussement teaches transferring hold system statistics via a web page to a non-caller, not to a caller.

In contrast, when the present invention is viewed as a whole, including the elements of claim 1, characteristics of an on hold system are transferred to a caller specified interface while the caller is on hold in the hold system. Because Coussement teaches a non-caller web page interface and Burg teaches a current on hold caller telephone interface, neither reference suggests a motivation for combination with the other. In addition, Appellants respectfully assert that the motivation cited by the Examiner, "to provide a system that will save phone costs for customers (or callers) as well as reducing utilization requirements of communication center interface technologies", does not indicate a motivation for combining Coussement in view of Burg to teach "transferring said plurality of characteristics in said particular format to an interface specified by said caller" where "said caller" is on hold.

Second, Appellants assert that the combination of Burg and Coussement does not teach transferring said plurality of characteristics to said particular interface selected by said caller, responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics (of claim 19) because Coussement does not teach transferring hold system information to any interface other than the one through which a user logs on, which is not an "a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics". In particular, when the present invention is viewed as a whole, the

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element of <u>a particular interface from among a plurality of available interfaces</u> teaches that there is more than one interface available to the caller for selection by the caller, including the interface through which the user makes the selection. Coussement provides a single interface, in the form of a web page, that the user uses to initiate access to hold system information and through which the user receives hold system information. Coussement does not teach enabling user specification of an interface from among multiple available interfaces, other than selecting the system through which to access the web page. Because Coussement teaches a single access method, and a single location to which data could be transferred, Coussement does not teach a selection of <u>a particular interface from among a plurality of available interfaces</u>.

In conclusion, Appellants respectfully assert that Burg in view of Coussement, either in combination or alone, do not teach <u>transferring said plurality of characteristics to said particular interface selected by said caller, responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics</u>, and that there is no motivation to combine the references to teach this step. Therefore, a prima facie case of obviousness under 103(a) is not established for claims 5, 12, 16, 19, 20, 25, 26, and 31, because the teachings of Burg in view of Coussement do not teach or make at least one element in claims 5, 12, 16, 19, 20, 25, 26, and 31 obvious to one of ordinary skill in the art. Because a prima facie case of obviousness under 103(a) is not established for the claims 5, 12, 16, 19, 20, 25, 26, and 31, Appellants respectfully request allowance of claims 5, 12, 16, 19, 20, 25, 26, and 31.

<u>Claims 7, 14, 18, 21, 27, 32</u>

Dependent method claim 7, which is representative of claims 14, 18, 21, 27, and 32 with regard to similarly recited subject matter and rejection, reads as follows:

> 7.   The method for publishing call queue characteristics according to claim 1, further comprising:
> filtering a preferred selection from among said plurality of characteristics according to output preferences for said caller.

In particular, the Examiner cites Burg as lacking the teachings of the elements of claim 7. The Examiner cites Coussement, however, as teaching <u>filtering a preferred</u>

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selection from among said plurality of characteristics according to output preferences for said caller. [Final Office Action, p. 4] In particular, the Examiner cites Coussement, paragraph 0061, lines 1-5, as teaching:

> "Web Presence Software (WPS 16) enhanced with a filtering capability of filtering status information that closely matches a user request (or output preferences for said caller)." [Final Office Action, p. 4]

As with Claim 5, the Examiner then concludes that

> "it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify Burg et al.'s system as per the teachings of Coussement; and thus in this manner provide a system that will save phone costs for customers (or callers) as well as reducing utilization requirements of communication center interface technologies."
> [Final Office Action, p. 5]

As described with reference to Claim 5, Appellants assert that there is no motivation to combine Burg and Coussement to teach the present invention. Because there is no motivation to combine Burg and Coussement, a prima facie case of obviousness under 103(a) is not established for claims 7, 14, 18, 21, 27, and 32. Because a prima facie case of obviousness under 103(a) is not established for claim 7, 14, 18, 21, 27, and 32, Appellants respectfully request allowance of claims 7, 14, 18, 21, 27, or 32.

3.   35 U.S.C. 103(a), Alleged Obviousness, Claims 22-24, 28-30, and 33-35

The Final Office Action rejects claims 22-24, 28-30, and 33-35 under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473) in view of Coussement (US Patent Publication 2002/0055967) as applied to claims 5 and 7, 12, 14, 16, 18-21, 25-27, and 31-32 and further in view of Petrovykh (US Patent Publication 2002/0055975. [Final Office Action, p. 6] The rejection is respectfully traversed.

Dependent method claims 22, 23, and 24, which are representative of dependent system claims 28, 29, and 30 and dependent computer program product claims 33, 34, and 35, with regard to similarly recited subject matter and rejection, reads as follows:

> 22.   The method for interface specific call queue publishing according to claim 19, further comprising:
>   outputting a call tracking number and network address to said caller; and
>   responsive to detecting said call tracking number entered through a

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caller accessible interface accessing said network address, transferring
said plurality of characteristics to said caller accessible interface.

23.   The method for interface specific call queue publishing according
to claim 19, further comprising:
        receiving a caller account identifier as said particular interface; and
        transferring said plurality of characteristics via a network in an
electronic mail to an account server serving said caller account identifier.

24.   The method for interface specific call queue publishing according
to claim 19, further comprising:
        receiving a caller messaging identifier as said particular interface;
and
        transferring said plurality of characteristics in an instant message
to said caller messaging identifier via a network.

Regarding claims 22-24, the Examiner cites Burg in view of Coussement as
teaching the invention claimed, "except for the step of outputting a call tracking number
and network address to said caller, and responsive to detection of said calling tracking
number entered through a caller accessible interface accessing said network address,
transferring said plurality of characteristics to said caller accessible interface; the step of
receiving a caller account identifier as said particular interface, and transferring said
plurality of characteristics via a network in an electronic mail to an account server
serving said caller account identifier; and the step of receiving a caller messaging
identifier as said particular interface; and transferring said plurality of characteristics in
an instance message to said caller messaging identifier via a network." [Office Action,
pp. 6-7]

The Examiner then cites Petrovykh paragraphs 0037, 0095, and 0165-0167 as
teaching the missing elements. In general, Petrovykh teaches "a routing system provided
for intelligent routing of instance messages between clients connected to a data network
and customer service representatives connected to the network." (Petrovykh, abstract
lines 1-3). In particular, paragraph 0032, lines 10-14 describes that "clients connected to
the network and operating instant message software connect to the instant message server
for the purpose of establishing [instant-messaging based] communication with available
customer service representatives." Paragraph 0037 describes routing instant messaging

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requests to a particular IP address of a customer service representative within the network (see Paragraph 0037, which reads:

> "In one aspect of the method in step (a), client connection comprises a network appliance having instant messaging capability operationally coupled to the network. In one embodiment, the network appliance is a computer. In one aspect of the method in step (c), the instant message server optionally re-directs the client to the proxy server and relinquishes communication hosting. In one aspect of the method in step (d), the interaction results in at least client identification, version identification of instance message software used by the client, and a reason for requesting communication with a customer service representative.")

Paragraph 0092 teaches that agents operating from communication centers can monitor a client availability status for the purpose of callback optimization and paragraph 0095, cited by the Examiner, teaches that the client-status information can be obtained using a single protocol or multiple protocols and a single network or multiple networks (see Paragraph 0095 which reads:

> "In one aspect of the system, client-status information is obtained using a single protocol, such as ICQ.TM. In another aspect of the system, partial client-status information is obtained using multiple protocols, such as ICQ.TM and MSN Messenger Service.TM, and combined to provide complete client-status information to the subscribing agent. In one aspect of the system, client status information is obtained via a single network, such as the Internet network. In another aspect of the system, partial client-status information is obtained via multiple networks, such as the Internet network and the cellular network, and combined to provide complete client-status information to the subscribing agent.")

Paragraph 0165, cited by the Examiner, teaches a web browser interface through which the client can select from multiple options, such as viewing the status of individual agents, allowing a user to monitor calls holding for the agent, and allowing a user to submit a call-back request (see Paragraph 0165 which reads:

> "In addition to the above, element 139 is for viewing the status of individual agents as personal account managers, allowing a user to monitor calls holding for the agent, estimated hold time, and to submit a call-back request. Element 141 allows the user to initiate a communication in any one of a variety of formats, as indicated. As can be seen in this example, interface 125 covers all of the functionality described in the embodiments introduced by FIGS. 1 and 4 above.")

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Paragraph 0166, cited by the Examiner teaches that every client subscribing to the call center system is provided with an identification parameter (member ID number) so that data obtained and stored from internal and external sources is easily identifiable to a particular client by the member ID number and that "passwords and log-in requirements may be instituted depending on enterprise rules." (see Paragraph 0166 which reads:

> "In a preferred embodiment of the present invention, every client subscribing to the system of the present invention is provided with at least an identification parameter (member ID number). In this way, data obtained and stored from internal and external sources is easily identifiable to a particular client. In addition, passwords and log-in requirements may be instituted depending on enterprise rules. Much profile information about clients may be automatically compiled using on-going historical data resulting from ongoing relationships with clients. Such data, if available, may appear in the described Add/Edit Information section of interface 125 when first created. It is important to note herein that the data categories 127, 129, 131, and 133 may be populated using automatic interaction recording methods during communication center interaction events.")

Paragraph 0167 teaches that the personal data category can be divided into subcategories such as login name, password, address, age, marital status, etc (see Paragraph 0167 which reads:

> "Referring now to personal data category 127, this information is illustrated herein as divided into various basic subcategories. These subcategories are listed from top to bottom as: login name, password, address, and age, marital status, etc. Each category may be further divided into more subcategories as deemed appropriate. As data is automatically compiled about a client over time, the client's profile becomes more and more accurate. Interface 125 enables a client to manually add or edit information at any time.")

The Examiner then concludes that

> "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Burg et al. and Coussement by adding the use of a member ID number (i.e. call tracking number), a login name (i.e. call account identifier), and the use of version identification of instant message software used by the client (i.e. caller messaging identifier) in order to transfer client-status information (i.e. plurality of characteristics) to an interface (or PC) used by the client (or caller) as taught by Petrovykh, and thus in this manner allow better routing of calls, faster delivery of calls and associated information and improved service with regard to client satisfaction." [Final Office Action, p. 9]

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In addition, the Examiner asserts again, as first asserted an Office Action, dated
3/24/2004 that

> "the Examiner takes Official Notice that while not directly expressed in
> Petrovykh, it is inherent that in order to route the caller requested
> information to PC (i.e. caller accessible interface) a network address (in
> this case an IP) is needed; and that when using MSN Messenger
> Service.TM, the caller can receive the requested information (i.e. plurality
> of characteristics) on an e-mail account under which the MSN Messenger
> Service.TM was registered." [Final Office Action, p. 9]

The Examiner carries the burden of proving a prima facie case of obviousness for
a 103(a) rejection. In particular, in establishing a prima facie case of obviousness under
103(a), the combined prior art references must teach or suggest all the claim limitations.
In re Vaeck, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). Appellants respectfully
assert that the Examiner does not show and the references do not teach or suggest,
separately or in combination, outputting a call tracking number and network address to
said caller and responsive to detection of said calling tracking number entered through a
caller accessible interface accessing said network address, transferring said plurality of
characteristics to said caller accessible interface; receiving a caller account identifier as
said particular interface and transferring said plurality of characteristics via a network in
an electronic mail to an account server serving said caller account identifier; and
receiving a caller messaging identifier as said particular interface and transferring said
plurality of characteristics in an instance message to said caller messaging identifier via a
network." [Office Action, pp. 6-7]

First, Appellants assert that the combination of Burg and Coussement do not teach
transferring said plurality of characteristics to said particular interface selected by said
caller, responsive to a selection by a caller through a telephony based communication
while on hold within said on hold system of a particular interface from among a plurality
of available interfaces for publishing said plurality of characteristics of independent claim
21 because the combination of Burg and Coussement does not teach "a particular
interface from among a plurality of available interfaces" and therefore the combination of
Burg, Coussement and Petrovykh does not teach the dependent elements of receiving a

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caller account identifier as said particular interface or receiving a caller messaging identifier as said particular interface.

Second, Appellants assert that Petrovykh does not teach "by adding the use of a member ID number (i.e. call tracking number), a login name (i.e. call account identifier), and the use of version identification of instant message software used by the client (i.e. caller messaging identifier) in order to transfer client-status information (i.e. plurality of characteristics) to an interface (or PC) used by the client (or caller) as taught by Petrovykh," as asserted by the Examiner, and therefore the combination of Burg, Coussement and Petrovykh do not teach the elements of claims 22-24. In particular, when the teachings of the present invention are removed from the Examiner's assertion, the Examiner asserts that Petrovykh teaches "adding the use of a member ID number, a login name, and the use of version identification of instant message software used by the client in order to transfer client-status information to an interface used by the client." [Final Office Action, p. 9] Petrovykh, however, in paragraph 0092 teaches that "client-status information" is an indicator of the availability of the client to receive communications that is viewable by representatives. "Client-status information" is not an indicator of the availability of the on hold system to receive communication and is not transferred to the client interface. Further, Appellants respectfully note that Petrovykh teaches the use of version identification of instant message software used by the client as a way to track the availability of the user by tracking whether the user is logged on to the instant messaging software, so that a representative can determine whether to contact the user via the instant messaging software (Petrovykh, paragraphs 0037 and 0095). Petrovykh does not teach using the instant messaging software to transfer characteristics. In conclusion, Appellants respectfully assert that Burg in view of Coussement and Petrovykh, either in combination or alone, does not teach the elements of claims 22-24, 28-30, and 33-35. Therefore, a prima facie case of obviousness under 103(a) is not established for claims 22-24, 28-30, and 33-35, because the teachings of Burg in view of Coussement and Petrovykh do not teach at least one element in claims 22-24, 28-30, and 33-35. Because a prima facie case of obviousness under 103(a) is not established for the claims 22-24, 28-30, and 33-35, Appellants respectfully request allowance of claims 5, 22-24, 28-30, and 33-35.

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4.   35 U.S.C. 103(a), Alleged Obviousness, Claims 6, 13, and 17

The Final Office Action rejects claims 6, 13, and 17 under 35 U.S.C. §103(a) as being allegedly unpatentable over Burg et al. (US Patent 6,738,473) in view of Ginsberg (US Patent 6,064,730). Claims 6, 13, and 17 are dependent claims of independent method, system, and program claims 1, 8, and 15, respectively. Appellants respectfully assert that because prima facie obviousness is not established for claims 1, 8, and 15 under Burg et al, at least by virtue of their dependency on claims 1, 8, and 15, the teachings of Burg in view of Ginsberg do not make the features of dependent claims 6, 13, and 17 obvious under 35 U.S.C. §103(a).

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CONCLUSION

It is therefore respectfully requested that the Examiner's rejection of claims 1, 2, 4-9, and 11-35 under 35 USC 103(a) be reversed and the claims allowed.

Please charge the fee of $500.00 for submission of an Appeal Brief under 37 CFR 41.20(b)(2) to IBM Corporation Deposit Account No. 09-0447. No additional filing fee is believed to be necessary; however, in the event that any additional fee is required, please charge it to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

on 2/7/2005

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VIII. Claims Appendix

The Claims involved in the Appeal are as follows:

1.   A method for publishing call queue characteristics comprising:

monitoring a plurality of characteristics of an on hold system; and

responsive to a selection by a caller currently waiting within said on hold system of a particular format from a menu of a plurality of available formats for publishing said plurality of characteristics, transferring said plurality of characteristics to said caller in said particular format.

2.   The method for publishing call queue characteristics according to claim 1, wherein monitoring a plurality of characteristics further comprises:

monitoring at least one from among a current activity status of said on hold system, an estimated activity status of said on hold system, a historical average activity status of said on hold system, and a historical average activity status of at least one current caller on hold within said on hold system.

3.   Cancelled.

4.   The method for publishing call queue characteristics according to claim 1, wherein said particular format for publishing said plurality of characteristics further comprises at least one from among a voice format, a text format, a video format, and a graphical format.

5.   The method for publishing call queue characteristics according to claim 1, wherein transferring said plurality of characteristics further comprises:

transferring said plurality of characteristics in said particular format to an interface specified by said caller.

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6.   The method for publishing call queue characteristics according to claim 1, wherein monitoring a plurality of characteristics further comprises:

monitoring an expected subject matter selection of a plurality of calls currently on hold within said on hold system.

7.   The method for publishing call queue characteristics according to claim 1, further comprising:

filtering a preferred selection from among said plurality of characteristics according to output preferences for said caller.

8.   A system for publishing call queue characteristics comprising:

an on hold system for managing a plurality of calls waiting on hold;

means for monitoring a plurality of characteristics of said on hold system; and

means responsive to a selection by a caller currently waiting within said on hold system of a particular format from a menu of a plurality of available formats for publishing said plurality of characteristics, transferring said plurality of characteristics to said caller in said particular format.

9.   The system for publishing call queue characteristics according to claim 8, wherein said means for monitoring a plurality of characteristics further comprises:

means for monitoring at least one from among a current activity status of said on hold system, an estimated activity status of said on hold system, a historical average activity status of said on hold system, and a historical average activity status of at least one current caller on hold within said on hold system.

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10. Cancelled.

11.   The system for publishing call queue characteristics according to claim 8, wherein said particular format for publishing said plurality of characteristics further comprises at least one from among a voice format, a text format, a video format, and a graphical format.

12.   The system for publishing call queue characteristics according to claim 8, wherein said means for transferring said plurality of characteristics further comprises:

        means for transferring said plurality of characteristics in said particular format to an interface specified by said particular caller.

13.   The system for publishing call queue characteristics according to claim 8, wherein said means for monitoring a plurality of characteristics further comprises:

        means for monitoring an expected subject matter selection of said plurality of calls currently on hold within said on hold system.

14.   The system for publishing call queue characteristics according to claim 8, further comprising:

        means for filtering a preferred selection from among said plurality of characteristics according to output preferences for said particular caller.

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15.   A computer program product for publishing call queue characteristics, said computer program product comprising:

a recording medium;

means, recorded on said recording medium, for monitoring a plurality of characteristics of an on hold system; and

means, recorded on said recording medium, for enabling transfer of said plurality of characteristics to a particular caller in a format specified by said particular caller while waiting within said on hold system from a menu of a plurality of available formats for publishing said plurality of characteristics.

16.   The computer program product for publishing call queue characteristics according to claim 15, wherein said means for enabling transfer of said plurality of characteristics further comprises:

means, recorded on said recording medium, for enabling transfer of said plurality of characteristics in said particular format to an interface specified by said particular caller.

17.   The computer program product for publishing call queue characteristics according to claim 15, wherein said means for monitoring a plurality of characteristics further comprises:

means, recorded on said recording medium, for monitoring an expected subject matter selection of said plurality of calls currently on hold within said hold system.

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18.   The computer program product for publishing call queue characteristics according
to claim 15, further comprising:

means, recorded on said recording medium, for filtering a preferred selection
from among said plurality of characteristics according to output preferences for said
particular caller.

19.   A method for interface specific call queue publishing comprising:

monitoring a plurality of characteristics of an on hold system; and

responsive to a selection by a caller through a telephony based communication
while on hold within said on hold system of a particular interface from among a plurality
of available interfaces for publishing said plurality of characteristics, transferring said
plurality of characteristics to said particular interface selected by said caller.

20.   The method for interface specific call queue publishing according to claim 19,
wherein said particular interface comprises at least one from among a wireline telephone,
a wireless telephone, a personal computer, a pervasive device, and an account server.

21.   The method for interface specific call queue publishing according to claim 19,
further comprising:

filtering a selection of characteristics from among said plurality of characteristics
according to output preferences of said caller.

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22.   The method for interface specific call queue publishing according to claim 19, further comprising:

outputting a call tracking number and network address to said caller; and

responsive to detecting said call tracking number entered through a caller accessible interface accessing said network address, transferring said plurality of characteristics to said caller accessible interface.

23.   The method for interface specific call queue publishing according to claim 19, further comprising:

receiving a caller account identifier as said particular interface; and

transferring said plurality of characteristics via a network in an electronic mail to an account server serving said caller account identifier.

24.   The method for interface specific call queue publishing according to claim 19, further comprising:

receiving a caller messaging identifier as said particular interface; and

transferring said plurality of characteristics in an instant message to said caller messaging identifier via a network.

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25.   A system for interface specific call queue publishing comprising:

an on hold system for managing a plurality of calls waiting on hold;

means for monitoring a plurality of characteristics of an on hold system; and

means responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of a particular interface from among a plurality of available interfaces for publishing said plurality of characteristics, for transferring said plurality of characteristics to said particular interface selected by said caller.

26.   The system for interface specific call queue publishing according to claim 25, wherein said particular interface comprises at least one from among a wireline telephone, a wireless telephone, a personal computer, a pervasive device, and an account server.

27.   The system for interface specific call queue publishing according to claim 25, further comprising:

means for filtering a selection of characteristics from among said plurality of characteristics according to output preferences of said caller.

28.   The system for interface specific call queue publishing according to claim 25, further comprising:

means for outputting a call tracking number and network address to said caller ; and

means responsive to detecting said call tracking number entered through a caller accessible interface accessing said network address, for transferring said plurality of characteristics to said caller accessible interface.

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29.　The system for interface specific call queue publishing according to claim 25, further comprising:

　　　means for receiving a caller account identifier as said particular interface; and

　　　means for transferring said plurality of characteristics via a network in an electronic mail to an account server serving said caller account identifier.

30.　The system for interface specific call queue publishing according to claim 25, further comprising:

　　　means for receiving a caller messaging identifier as said particular interface; and

　　　means for transferring said plurality of characteristics in an instant message to said caller messaging identifier via a network.

31.　A computer program product for interface specific call queue publishing comprising:

　　　a recording medium;

　　　means, recorded on said recording medium; for monitoring a plurality of characteristics of an on hold system; and

　　　means, recorded on said recording medium, for enabling transfer of said plurality of characteristics to a particular interface from among a plurality of available interfaces selected by said caller through a telephony based communication while on hold within said on hold system for publication of said plurality of characteristics.

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32. The computer program product for interface specific call queue publishing according to claim 31, further comprising:

means, recorded on said recording medium, for filtering a selection of characteristics from among said plurality of characteristics according to output preferences of said caller.

33. The computer program product for interface specific call queue publishing according to claim 31, further comprising:

means, recording on said recording medium, for controlling output of a call tracking number and network address to said caller; and

means, recorded on said recording medium, for controlling transfer of said plurality of characteristics to said caller accessible interface responsive to detecting said call tracking number entered through a caller accessible interface accessing said network address.

34. The computer program product for interface specific call queue publishing according to claim 31, further comprising:

means, recorded on said recording medium, for enabling receipt of a caller account identifier as said particular interface; and

means, recorded on said recording medium, for controlling transfer of said plurality of characteristics via a network in an electronic mail to an account server serving said caller account identifier.

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35. The computer program product for interface specific call queue publishing according to claim 31, further comprising:

means, recorded on said recording medium, for enabling receipt of a caller messaging identifier as said particular interface; and

means, recorded on said recording medium, for controlling transfer of said plurality of characteristics in an instant message to said caller messaging identifier via a network.

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IX. Evidence Appendix

There is no evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner that is relied upon by Appellants in the appeal.

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X. Related Proceedings Appendix

There are no decisions rendered yet by a court or the Board in any related appeals.

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